

# EXHIBIT C

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

- - -  
EQUAL EMPLOYMENT : CIVIL ACTION  
OPPORTUNITY COMMISSION, :  
Plaintiff :  
V. :  
LA WEIGHT LOSS, :  
Defendant : NO. WDQ-92-CV-648  
- - -

December 15, 2005  
- - -

Oral deposition of JONI MARIE  
FABIE, held at the Equal Employment  
Opportunity Commission, The Bourse  
Building, 21 South Fifth Street, Suite  
400, Philadelphia, Pennsylvania 19106,  
commencing at 9:36 a.m. on the above  
date, before Teresa M. Beaver, a  
Federally-Approved Registered  
Professional Reporter and a Notary Public  
in the Commonwealth of Pennsylvania.  
- - -

ESQUIRE DEPOSITION SERVICES  
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## Joni Marie Fabie

Page 10

Page 12

1 was September 7th, 1999. Does that sound  
2 correct?

3 A. Yes.

4 Q. Have you received any Equal  
5 Employment Opportunity training at any  
6 time during the course of your employment  
7 at LA Weight Loss?

8 A. Many, many times.

9 Q. Can you tell me how many?

10 A. I can't remember exactly.  
11 It's just something that is covered over  
12 and over.

13 Q. Have the trainings that  
14 you've received over and over, basically  
15 been the same information or has the  
16 information in those trainings been  
17 different in any way?

18 A. EEOC training never changes.  
19 That's something that's been  
20 solid.

21 Q. What are the topics that are  
22 covered in that training?

23 A. That LA Weight Loss has a  
24 zero tolerance for LA Weight – for any

1 that you can and cannot ask. There are  
2 certain questions that you can ask to  
3 acquire information legally; without any  
4 discrimination.

5 Q. Okay. When you've attended  
6 these trainings, who do you recall being  
7 present? And when I ask that, we can  
8 talk about specific individuals, but  
9 first, I just want to ask about what  
10 level of personnel? Is it management  
11 personnel? Is it everybody? And within  
12 management, what levels?

13 MR. WETCHLER: Object to the  
14 form. You can answer.

15 THE WITNESS: Who has been  
16 present at each and every meeting?  
17 I can't remember exactly. I can  
18 tell you that human resources has  
19 been involved in many of my  
20 trainings as a supervisor when I  
21 began interviewing with the  
22 company.

23 As well as my giving their  
24 information down to my employers

Page 11

Page 13

1 discrimination at all.

2 That we don't discriminate  
3 against women, men, age, race, gender,  
4 sexual preference, religion. And that we  
5 are fair and equal employer. And teach  
6 us basic interviewing skills.

7 Q. And when you say teaches you  
8 basic interview skills, what kind of  
9 skills specifically are taught in that  
10 context?

11 A. For EEOC?

12 Q. Correct.

13 A. What I just told you before;  
14 those basics of equal opportunity  
15 employment used in interviewing. Never  
16 changes. Those are basic, fundamental  
17 skills that have not ever changed since  
18 my time with the company.

19 Q. Have you been given training  
20 on prohibited questions? For example,  
21 don't ask someone if they have multiple  
22 sclerosis or something like that?

23 A. Oh, yes. We've been told  
24 questions. There are certain questions

1 in meeting and workshops as well.

2 BY MR. PHILLIPS:

3 Q. When was the first time you  
4 received EEO training?

5 A. I don't remember exactly. I  
6 couldn't give you a date.

7 Q. Do you recall what job title  
8 you had when you received EEO training?

9 A. Area supervisor.

10 Q. Area supervisor. Who  
11 conducted the training?

12 A. I don't remember exactly.

13 Q. Was it human resources?

14 A. I couldn't answer that  
15 exactly.

16 Q. And you became an area  
17 supervisor in what year?

18 A. I don't remember.

19 Q. How long had you been with  
20 the company when you became an area  
21 supervisor?

22 A. How long was I with the  
23 company before I became an area  
24 supervisor?

4 (Pages 10 to 13)

## Joni Marie Fabie

Page 14

Page 16

1 Q. Yes.  
 2 A. I was hired in '99. I  
 3 tracked -- if I tracked my progress --  
 4 '01.  
 5 Q. Okay. And how long after  
 6 you became an area supervisor did you  
 7 receive EEO training?  
 8 MR. WETCHLER: Object to the  
 9 form. Object to lack of  
 10 foundation. You can answer.  
 11 MR. PHILLIPS: Go ahead.  
 12 THE WITNESS: I don't  
 13 remember the exact date.  
 14 BY MR. PHILLIPS:  
 15 Q. Can you give me an estimate  
 16 of months?  
 17 A. I can tell you that  
 18 interviewing and recruiting, when you  
 19 become an area supervisor, are one of the  
 20 most important things in our positions.  
 21 And it is covered in a very timely manner  
 22 upon your promotion.  
 23 Q. When you say interviewing  
 24 and recruiting, that included an EEO

1 company policy and legal questions or  
 2 illegal questions or improper questions,  
 3 for interviewing, do you -- did you  
 4 receive training on any other aspect of  
 5 equal employment opportunity?  
 6 A. Equal opportunity employment  
 7 training covers what I explained earlier;  
 8 that is, we are a fair interview company.  
 9 We are a fair employer. We don't  
 10 discriminate at all.  
 11 That's -- it's totally --  
 12 equal opportunity is totally separate  
 13 from other human resource related issues.  
 14 Q. And when I talk about other  
 15 areas of training within equal employment  
 16 opportunity, let me give you an example  
 17 that's not directly relevant but that's  
 18 just an example to illustrate.  
 19 Have you ever received any  
 20 training on reasonable accommodations  
 21 under the Americans with Disabilities  
 22 Act?  
 23 A. I am not aware of that.  
 24 Q. Are you familiar with the

Page 15

Page 17

1 component?  
 2 A. Yes. Everything human  
 3 resource related.  
 4 Q. Did you receive any training  
 5 materials at any point in your  
 6 employment, specifically referencing  
 7 Equal Employment Opportunity?  
 8 A. Yes.  
 9 Q. Have you previously -- well,  
 10 are you currently in possession of those  
 11 materials?  
 12 A. No. Old materials, no.  
 13 Q. So, older materials you've  
 14 just discarded?  
 15 A. We have evolved with new and  
 16 updated materials all the time.  
 17 Q. Other than the topics that  
 18 you've already covered, the fact that the  
 19 company has articulated a zero tolerance  
 20 policy for discrimination, which the fact  
 21 that it's done in the context of a hiring  
 22 and recruiting training, the  
 23 identification of different kinds of  
 24 discrimination that are prohibited by

1 concept of reasonable accommodation?  
 2 A. No.  
 3 Q. Have you ever received any  
 4 training on the topic of gender  
 5 stereotype or sex stereotype?  
 6 A. Could you explain what you  
 7 mean by that?  
 8 Q. Sure. What I mean is  
 9 drawing conclusions about somebody's sex  
 10 or gender -- drawing a conclusion about  
 11 someone because of their sex or gender,  
 12 that may not necessarily be true?  
 13 A. Could you repeat that one  
 14 more time?  
 15 Q. Sure.  
 16 A. I'm trying to follow this.  
 17 Q. First of all, sitting here  
 18 today, do you have an understanding of  
 19 the term gender stereotype?  
 20 A. Yes.  
 21 Q. What is your understanding?  
 22 A. Gender stereotype, from what  
 23 I understand, is just because somebody is  
 24 a particular gender, male or female, do I

5 (Pages 14 to 17)

## Joni Marie Fabie

Page 94

Page 96

1 center level, supporting the company,  
2 promoting the company, the products, the  
3 program for the success of our clients.

4 That's a general summation.

5 I don't go into details of the job  
6 description in the beginning. I just let  
7 them know that it's the assistant manager  
8 position.

9 Q. At what point do you go into  
10 details, if at all, about the specific of  
11 the position?

12 A. Usually --

13 MR. WETCHLER: Objection.  
14 Asked and answered. You can  
15 answer.

16 THE WITNESS: Usually the  
17 second interview or if I feel they  
18 are a quality candidate.

19 BY MR. PHILLIPS:

20 Q. Basically the same as the  
21 earning expectation? It's at the --

22 A. Yes.

23 Q. Okay. How was your  
24 description of the center manager

1 sales business; where in order to be  
2 successful, the ability to build rapport  
3 instantly with a client immediately, in  
4 the consultation, over the phone, the  
5 initial phone call itself, I emphasize  
6 telephone skills required.

7 And we show people how to  
8 eat real foods to change their life, to  
9 lose weight, to be healthier, to be  
10 whatever their goal is; through following  
11 the program and having products available  
12 to assist them along the way.

13 Q. What products?

14 A. LA Lights, supplements.

15 Q. LA Lights are the bars?

16 A. Yes.

17 Q. And supplements, it's like a  
18 vitamin pill?

19 A. Yes.

20 Q. Is part of a sales counselor  
21 job to sell supplements and LA Lights?

22 A. Yes.

23 Q. Is that part of the job of  
24 all people who work in a center?

Page 95

Page 97

1 position different in your interview  
2 presentations in June of 2004?

3 A. Well, center manager is  
4 responsible for all operations in the  
5 center, in the course of a day, in the  
6 course of a week, meeting, exceeding  
7 sales calls, expectations. Hiring -- not  
8 hiring -- training, developing their  
9 employees. Providing an exceptional  
10 level of service to the clients to grow  
11 the business, grow the applicant.

12 Q. Back in June of 2004, what  
13 did you tell candidates about what the  
14 company sells? What does the company do?

15 MR. WETCHLER: Objection.  
16 Lack of foundation. You can  
17 answer.

18 BY MR. PHILLIPS:

19 Q. In June of 2004, during  
20 interviews, did you tell candidates about  
21 the specific nature of the product and  
22 services that LA Weight Loss provides?

23 A. They always understand that  
24 this is a sales business, an emotional

1 A. Our job is to promote the  
2 program and the products, to make weight  
3 loss as fast and easy as possible for our  
4 clients.

5 Q. Are people required to buy  
6 the products to be a part of the program?

7 A. No.

8 Q. Have they ever been required  
9 to buy the products to be a part of the  
10 program?

11 A. No.

12 Q. What's the main source of  
13 revenue for a center at LA Weight Loss?  
14 What aspect?

15 A. We split it up between  
16 service, which is selling programs and  
17 product sales. It's approximately 60 --  
18 40/60 split.

19 Q. Between the program versus  
20 the products?

21 A. Yes.

22 Q. What is buying in bulk?

23 A. Buying in bulk is when a  
24 client chooses to pre-purchase in advance

25 (Pages 94 to 97)

Joni Marie Fabie

Page 98

Page 100

1 anything she wants. And that way she has  
2 it. It's available without the hassle of  
3 having to pull her check box out for --  
4 every time.

5 Q. Is there a sales  
6 presentation done on those products by  
7 center level employees?

8 A. Yes.

9 Q. Is there a particular  
10 package, as far as -- I'm trying to  
11 understand the business here.

12 Is there a particular, like  
13 package like X number of bars or X number  
14 of supplements or is it just sort of open  
15 ended?

16 A. We first determine, through  
17 a medical history, if she's even eligible  
18 for them.

19 Q. Okay.

20 A. And then we determine the  
21 best products for her that she's eligible  
22 to take. And if she chooses to work them  
23 into her program, that's great, you know.  
24 We're going to teach her how, why, you

1 A. Yes, because some medical  
2 conditions tend to lose weight slower  
3 than a healthy man or woman.

4 Q. Counselors learn to take  
5 into account medical conditions?

6 A. Yes.

7 Q. They learn that in service  
8 training; correct?

9 A. Yes.

10 Q. A counselor is not required  
11 to come in with knowledge of medicine,  
12 anatomy, nutrition? That's all things  
13 that can be covered in training; correct?

14 A. We will train them technical  
15 information on the LA Weight Loss  
16 program.

17 Q. What is the range, in terms  
18 of the prices of the program, per week?

19 MR. WETCHLER: Object to the  
20 form. You can answer.

21 THE WITNESS: The average  
22 program cost is probably -- it  
23 depends how much the cost per week  
24 is.

Page 99

Page 101

1 know, the benefits of doing that, in  
2 combination with the most important  
3 thing, which is learning how to eat for  
4 the rest of your life.

5 The goal of this program is  
6 not to take a supplement. The goal of  
7 this program is to learn a healthy eating  
8 lifestyle that she'll never have to be in  
9 a weight loss center again.

10 Q. How much does the program  
11 cost?

12 A. It's different. It's based  
13 on how many pounds you want to lose, your  
14 health condition.

15 Q. Is there like a weekly  
16 charge? A weekly fee to be enrolled?

17 A. It is charged by week, the  
18 number of weeks.

19 Q. And that varies, depending  
20 on what program you are on?

21 A. Yes. We take into  
22 consideration age, medical conditions.

23 Q. Like heart conditions,  
24 diabetes? That kind of thing?

1 Right now we're selling the  
2 program only \$3 a week or only \$7  
3 a week and it's a great time for  
4 everybody to get started.

5 MS. SIEGEL: Join today.

6 THE WITNESS: Exactly.

7 MS. SIEGEL: Sorry.

8 THE WITNESS: Be down ten  
9 pounds before the holiday; not up.

10 BY MR. PHILLIPS:

11 Q. Gives you room to work with  
12 for the holidays.

13 A. Yeah. Plus, they have  
14 confidence, you know, the new year, they  
15 are set. They have it already.

16 But the average program, on  
17 a normal, full price week, could be  
18 anywhere, from again, if they don't have  
19 a lot of weight to lose, 450 up to 500,  
20 \$600. It just depends.

21 Q. 450 to \$500 --

22 A. On average. For their  
23 length of all their weeks of service.

24 Q. So, there's a set number of

26 (Pages 98 to 101)

ESQUIRE DEPOSITION SERVICES



Joni Marie Fabie

Page 118

Page 120

1 to come down here.  
 2 Q. To give deposition  
 3 testimony?  
 4 A. Yeah; whatever.  
 5 Q. Were you aware, prior to  
 6 this time, that LA Weight Loss had ever  
 7 been sued for gender discrimination  
 8 against men?  
 9 A. No.  
 10 Q. Were you ever aware at any  
 11 time prior to this time, that you – that  
 12 you were informed of the need to give  
 13 deposition testimony, that LA Weight Loss  
 14 had been investigated by a government  
 15 agency for gender discrimination against  
 16 men?  
 17 A. No.  
 18 Q. Prior to and excluding any  
 19 communications with counsel, prior to  
 20 being informed that you were to give a  
 21 deposition in this case, were you ever,  
 22 at any point, asked any questions by  
 23 anyone at LA Weight Loss concerning  
 24 gender discrimination against males?

1 Q. Other than the documents  
 2 that you provided, through counsel, and I  
 3 will just set them down in front of you  
 4 so you can see them – other than these  
 5 documents, have you possession of any  
 6 documents concerning, for example,  
 7 testimony given while an employee of LA  
 8 Weight Loss?  
 9 A. No.  
 10 Q. Have you ever given  
 11 testimony while employed at LA Weight  
 12 Loss?  
 13 A. No.  
 14 Q. Do you keep any diaries  
 15 concerning your hiring or recruitment  
 16 activities at LA Weight Loss?  
 17 A. No.  
 18 Q. Have you ever kept such  
 19 diaries?  
 20 A. No.  
 21 Q. Or journals or personal  
 22 notebooks?  
 23 A. No.  
 24 Q. Have you ever kept applicant

Page 119

Page 121

1 A. No.  
 2 Q. What is your current home  
 3 address?  
 4 A. 560 Ducane Road, York,  
 5 Pennsylvania.  
 6 Q. How long have you resided  
 7 there?  
 8 A. Year and a half.  
 9 Q. Do you reside anywhere else  
 10 for any part of the year?  
 11 A. Hotel rooms.  
 12 Q. Other than the hotel rooms?  
 13 A. No.  
 14 Q. Do you maintain a residence  
 15 anywhere?  
 16 A. No.  
 17 Q. Do you own that property?  
 18 A. Yes.  
 19 Q. Prior to today, it appears  
 20 that you provided documents to counsel  
 21 for production in this case? Is that  
 22 correct?  
 23 A. Yes. My human resources  
 24 folder in my e-mail briefcase.

1 logs during your employment at LA Weight  
 2 Loss?  
 3 A. No.  
 4 Q. And when I say an applicant  
 5 log, I'm specifically referring to a log  
 6 noting names and other information  
 7 regarding people who have applied for  
 8 employment at LA Weight Loss?  
 9 A. No, I have not.  
 10 Q. Have you ever received any  
 11 training, coaching, or other instruction  
 12 pertaining to keeping of or disposition  
 13 of applications and resumes?  
 14 A. Yes.  
 15 Q. When is the first time you  
 16 received such instruction?  
 17 A. As an area supervisor.  
 18 Q. Who provided the instruction  
 19 to you?  
 20 A. Human resources.  
 21 Q. Were there documents  
 22 associated with the instruction?  
 23 A. I don't remember.  
 24 Q. Tell me what instruction you

31 (Pages 118 to 121)

ESQUIRE DEPOSITION SERVICES

## Joni Marie Fabie

Page 122

Page 124

1 received on that topic.  
 2 A. That you hold on to nothing.  
 3 Everything gets sent to human resources.  
 4 Q. When you say everything,  
 5 what do you mean by everything?  
 6 A. Interview applications,  
 7 notes, resumes.  
 8 Q. Is it your testimony that  
 9 you followed that instruction?  
 10 A. Yes.  
 11 Q. So, is it fair to say that  
 12 your testimony today is that all  
 13 applications, all resumes, all interview  
 14 notes, all documents related to your  
 15 hiring activities were forwarded to human  
 16 resources after you finished with them?  
 17 MR. WETCHLER: Objection.  
 18 Lack of foundation. Object to the  
 19 form. You can answer.  
 20 THE WITNESS: To the best of  
 21 my knowledge, that I carry no  
 22 human resource papers around.  
 23 BY MR. PHILLIPS:  
 24 Q. Including applications,

1 Q. Which candidates were  
 2 recorded on those forms?  
 3 A. I do not know.  
 4 Q. I mean were all candidates  
 5 recorded on these forms or some?  
 6 A. Whoever left a voice mail.  
 7 Q. Do you have a recollection  
 8 of what the volumes of calls you were  
 9 receiving during a given time period was;  
 10 during a week, for example, how many  
 11 calls you would field?  
 12 A. It depended if I even ran an  
 13 ad. The toll free number was attached to  
 14 an ad or they could fax the resume  
 15 directly to human resources.  
 16 But I do not remember  
 17 numbers.  
 18 Q. And what did you do with  
 19 those documents after you finish with  
 20 them, the lead sheets?  
 21 A. Send them to HR.  
 22 Q. Did you keep separate notes  
 23 of those telephone leads or was it all  
 24 recorded on the form?

Page 123

Page 125

1 resumes, interview notes?  
 2 A. Yes. I don't have room for  
 3 all of it. I do not hold on to it.  
 4 Q. Did you ever keep telephone  
 5 logs of leads on candidates for  
 6 employment? Not a general log, but did  
 7 you ever keep notes on telephone leads?  
 8 A. Telephone leads, there was a  
 9 period of time, I do not remember when,  
 10 when we had recruiting hotlines, where we  
 11 had to manually retrieve our leads.  
 12 Q. Is this when you were an  
 13 area supervisor?  
 14 A. I don't remember.  
 15 Q. Do you recall how long the  
 16 system was set up?  
 17 A. It didn't live long. It was  
 18 a lot of work.  
 19 Q. Was there a particular form  
 20 that you use to record these telephone  
 21 calls?  
 22 A. Human resources provided us  
 23 with a form for us to stay organized,  
 24 yes; with these voice mails.

1 A. One form.  
 2 Q. Who did you send those  
 3 sheets to in HR? Was there a specific  
 4 individual?  
 5 A. It was just -- we have a  
 6 Monday mail bag system, where we have  
 7 specific envelopes for specific  
 8 departments; supervisors have been  
 9 trained to compile everything for that  
 10 week, that two weeks, however long they  
 11 have them and just forward them. And  
 12 they go to corporate.  
 13 Q. Did you retain photocopies?  
 14 A. No.  
 15 Q. Do you know of -- you  
 16 mentioned newspaper ads.  
 17 You made the decision to run  
 18 those ads?  
 19 A. I just consulted human  
 20 resources for the positions that I needed  
 21 ads for. They did it.  
 22 Q. During this time period, was  
 23 the company using Executive Search Group?  
 24 Do you know?

32 (Pages 122 to 125)



## Joni Marie Fabie

Page 142

Page 144

1 the Lancaster was approximately shy of a  
 2 year.  
 3 Q. What was your next position?  
 4 A. Area supervisor.  
 5 Q. CPA south?  
 6 A. Yes.  
 7 Q. Just shy of a year; so,  
 8 we're talking about promotion the area  
 9 supervisor in early 2001?  
 10 A. Yes.  
 11 Q. I'm not playing memory games  
 12 with you here. I'm looking at your  
 13 personnel file and not all of these  
 14 changes are reflected in your file.  
 15 Who made the decision to  
 16 promote you to area supervisor, if you  
 17 know?  
 18 A. Kim Fabie was the one who  
 19 promoted me; because I took Amy White's  
 20 job.  
 21 Q. What happened to Ms. White?  
 22 A. She was demoted.  
 23 Q. Do you know why?  
 24 A. No.

1 Q. Philadelphia --  
 2 A. And CPA south.  
 3 Q. And CPA south?  
 4 A. Yes.  
 5 Q. What parts of Philadelphia?  
 6 A. I had Philly suburban and --  
 7 which included Delaware and I had  
 8 Philly -- we restructured several times.  
 9 Philadelphia at that time was broken up  
 10 into four different areas. And what I  
 11 initially had changed into it. I don't  
 12 remember. They realigned a couple of  
 13 times.  
 14 Q. What parts of Delaware?  
 15 A. At that time, Dover,  
 16 Brandywine and Newark.  
 17 Q. When you say Philadelphia  
 18 suburban, what centers are you talking  
 19 about?  
 20 A. Grant Avenue -- I've been  
 21 out of Philly for so long -- South  
 22 Philly, Port Richmond, Center City -- I  
 23 can remember if it's area specific. I  
 24 just remember some of the centers.

Page 143

Page 145

1 Q. By Amy White, we're  
 2 referring to the one who was your  
 3 supervisor; correct?  
 4 A. Yes.  
 5 Q. Were you ever a supervisor  
 6 of any area of LA Weight Loss, other than  
 7 CPA south?  
 8 A. I was -- I got promoted to a  
 9 regional supervisor.  
 10 Q. Setting that aside, when you  
 11 were at the level of area supervisor, was  
 12 this any area that you ever supervised  
 13 other than CPA south?  
 14 A. No.  
 15 Q. How long were you an area  
 16 supervisor before you became a regional?  
 17 A. I believe I was promoted to  
 18 regional in the beginning of 2003.  
 19 Approximately two years.  
 20 Q. And we already discussed  
 21 that as a regional, your territory had  
 22 parts of Maryland -- I'm sorry -- parts  
 23 of Delaware --  
 24 A. Philadelphia.

1 Q. Okay. Okay.  
 2 A. I've been removed from  
 3 Philly for too long. I don't remember.  
 4 Q. Was it the centers that sort  
 5 of ring the southern part of the city?  
 6 A. Southern and then somewhat  
 7 into the northeast, Turnpike Extension.  
 8 Q. How long were you a regional  
 9 supervisor?  
 10 A. I don't remember when I was  
 11 promoted to a divisional.  
 12 Q. Was it a brief period of  
 13 time?  
 14 A. It was -- I'd be guessing.  
 15 It was over a year.  
 16 Q. Okay.  
 17 A. I believe.  
 18 Q. I will represent to you that  
 19 company records show that you were  
 20 promoted from regional to divisional,  
 21 effective February 3rd, 2003.  
 22 Does that date sound about  
 23 right?  
 24 A. Yes.

37 (Pages 142 to 145)

## Joni Marie Fabie

Page 182

Page 184

1 A. The application is another.  
 2 And the interview is another. That's the  
 3 recruitment process.  
 4 I mean it's -- it's unfair  
 5 for me to say that the resume is going to  
 6 be the same as the interview.  
 7 Q. Right. But what I'm asking  
 8 is: Do you consider those same factors  
 9 that you've just mentioned in the context  
 10 of the interview? Do you ask about those  
 11 things?  
 12 A. I review those, when I'm  
 13 reviewing their -- you asked me about  
 14 reviewing the information when I do an  
 15 interview.  
 16 When I review a resume, when  
 17 I review an application, those are the  
 18 things that I look at.  
 19 Q. Are those things you look at  
 20 in deciding when whether or not to hire a  
 21 person for counselor?  
 22 A. They could be factors, yes.  
 23 Q. Do you consider anything  
 24 beyond those things that you've just

1 responsibilities. I mean everything, as  
 2 I stated earlier, are things that we  
 3 cover in an interview, or I look at.  
 4 Q. Do you assess anything else  
 5 beyond past work experience during the  
 6 interview?  
 7 MR. WETCHLER: Object to the  
 8 form. You can answer.  
 9 THE WITNESS: No.  
 10 BY MR. PHILLIPS:  
 11 Q. Do you look at their  
 12 interpersonal skills?  
 13 A. Oh, yes; their -- I mean  
 14 when -- now, when it comes to the  
 15 interview itself?  
 16 Q. Right.  
 17 A. Their communication skills,  
 18 their ability to build a relationship  
 19 with me; as I am not a stringent, up  
 20 tight interviewer. I want my interviewee  
 21 to be very comfortable and relaxed so I  
 22 can see their true personality come out.  
 23 Because the relationship and  
 24 the rapport instantly that they build

Page 183

Page 185

1 testified to?  
 2 MR. WETCHLER: Object to the  
 3 form. You can answer.  
 4 THE WITNESS: If they -- if  
 5 they have certain skills that I  
 6 feel that would make them a good  
 7 fit to fill the needs of my  
 8 centers to produce the results  
 9 that I need, based -- if they  
 10 have -- they don't even have to  
 11 have all of them, but if they have  
 12 qualities that I find are  
 13 acceptable for me, in this  
 14 position that I'm looking for, the  
 15 interview then would further allow  
 16 me to determine their  
 17 compatibility to the position.  
 18 BY MR. PHILLIPS:  
 19 Q. What other factors do you  
 20 look at either on paper or during the  
 21 interview to determine compatibility for  
 22 the position of counselor?  
 23 A. I just focus in on their  
 24 past work experience; their

1 with me weighs heavily on my decision if  
 2 they can sit in front of a client and  
 3 help them with their weight loss problem.  
 4 Q. Have you ever conducted an  
 5 interview in a location other than at an  
 6 LA Weight Loss center?  
 7 A. Yes.  
 8 Q. Where?  
 9 A. Maybe at a neighboring  
 10 coffee shop, if I'm interviewing for a  
 11 position that is in that center. I wish  
 12 to practice discretion and not have  
 13 anybody overhear.  
 14 Q. Is it a regular part of your  
 15 practice to do interviews off site?  
 16 A. No.  
 17 Q. Is there anything else you  
 18 look for during the interview other than  
 19 answers to questions about job  
 20 experience? Communication skills and  
 21 ability to build a relationship with you?  
 22 A. Uh-huh. When it comes to  
 23 the interview itself, because of the  
 24 nature of our sales industry, and the

47 (Pages 182 to 185)

## Joni Marie Fabie

Page 186

Page 188

1 clientele that we deal with, I also like  
2 to put them in situational type  
3 questions, revolving around weight.

4 Q. So, hypotheticals?

5 A. Yes, hypotheticals or  
6 situations.

7 Q. Are there any set types of  
8 hypotheticals that you ask as a general  
9 practice?

10 A. In every interview, no. It  
11 depends on the interview. I only do  
12 situationals if I feel they possess some  
13 qualities to make them a candidate for  
14 the position.

15 Q. Give me an example of the  
16 situation of what you use.

17 A. I like them to share with me  
18 their weight loss successes, personally.

19 I like them — or some  
20 people have never had any. I like them  
21 to share their weight loss challenges or  
22 failures with me, to determine if they  
23 truly have empathy, sensitivity,  
24 compassion.

1 their perception of how weight would  
2 change their life; to see if they are  
3 po — possess emotional capabilities of  
4 understanding what a potential client  
5 would go through, so they can better  
6 service them.

7 Q. Have you asked that kind of  
8 question of male candidates?

9 A. Absolutely.

10 Q. Okay. So, we've talked  
11 about your interview of the application  
12 or the resume and things that you look  
13 for?

14 A. Uh-huh.

15 Q. We have talked about the  
16 interview and specifically, we talked  
17 about hypothetical questions and you've  
18 given an example?

19 A. Yes.

20 Q. Assessing communication  
21 skills, assessing the ability to build a  
22 relationship with you as well as answers  
23 to questions about prior job experience.  
24 Any other factors in the

Page 187

Page 189

1 Then I also like to put them  
2 in a situation where I place them 100  
3 pounds overweight right now.

4 Q. If you were 100 pounds  
5 overweight sitting here today, what would  
6 you give to lose that weight? Is that  
7 the kind of question?

8 A. I would probably end it with  
9 that. But I would really get more  
10 emotionally involved first. I'd want  
11 them just to sit there and think about it  
12 for a second; where I'm putting 100  
13 pounds on you right now. And just think  
14 about how your life would change.

15 What you would wear, how you  
16 would feel, confidence in your ability to  
17 perform a job at work. The relationships  
18 in your life.

19 What would be your thoughts  
20 going to a party with your spouse? What  
21 would you wear? What would you want to  
22 wear?

23 And then I would get them to  
24 start openly expressing their version,

1 decision to hire a counselor?

2 MR. WETCHLER: Object to the  
3 form.

4 THE WITNESS: It would all  
5 depend on the success of the  
6 second interview.

7 But then we would get into  
8 the client flow on telephones, how  
9 important they are, in answering  
10 scripts. I'd put them in role  
11 play situations.

12 I would show them our  
13 magazine that we use to present to  
14 a new client; showing the  
15 difference between selling a  
16 product and just selling service.

17 I would talk a lot about the  
18 emotional question that you need  
19 to have with the client, as you  
20 get her to express herself through  
21 effective questioning, to open up  
22 and get her to see that she needs  
23 to lose weight because her weight  
24 has absolutely changed her life.

48 (Pages 186 to 189)

## Joni Marie Fabie

Page 190

1 BY MR. PHILLIPS:  
 2 Q. What is this magazine?  
 3 A. It's just a --  
 4 Q. Like a brochure?  
 5 A. Yes, that outlines the  
 6 basics of the program.  
 7 Q. And it's used in the  
 8 centers?  
 9 A. For consultations.  
 10 Q. Is it just words or does it  
 11 have pictures in it?  
 12 A. Mostly words. There's some  
 13 pictures.  
 14 Q. Does it have pictures of  
 15 clients?  
 16 A. Yes.  
 17 Q. Like before and after kind  
 18 thing?  
 19 A. Not before and after.  
 20 Q. Pictures of people in the  
 21 centers?  
 22 A. Not people. Pictures of  
 23 centers, no. Just pictures of scenes.  
 24 People being happy. It's a positive

Page 191

1 presentation.  
 2 Q. Have you used this often as  
 3 a way of facilitating job interviews?  
 4 A. Not often. Sometimes.  
 5 Q. Sometimes?  
 6 A. When I need them to --  
 7 usually, it's always during the second  
 8 interview, where I really want them to  
 9 have a full understanding of the initial  
 10 sale. It's an emotional sale. It's an  
 11 intangible sale.  
 12 Q. Do you know of anyone else  
 13 using the book or the handout for  
 14 interviews?  
 15 A. I have coached to make sure  
 16 that -- the reason why I use this is  
 17 because when they leave these interviews,  
 18 when I feel they are a quality candidate,  
 19 I want them to have a true understanding  
 20 of the nature of our business.  
 21 So, there is no doubt when  
 22 they are sitting in my training class, I  
 23 never want to hear an applicant say I  
 24 didn't realize it was like this. I've

Page 192

1 learned my lessons before.  
 2 Q. You use these in second  
 3 interview, generally?  
 4 A. Sometimes.  
 5 Q. Have you ever used it in the  
 6 first interview?  
 7 A. No.  
 8 Q. Has anyone with the company  
 9 ever suggested to you that you could --  
 10 that you should do this?  
 11 A. No.  
 12 Q. I mean for example, has  
 13 there been any guidelines that suggest --  
 14 A. No.  
 15 Q. -- here are different  
 16 techniques that you could use to  
 17 introduce people to the way the business  
 18 works?  
 19 A. No. Simply my interview  
 20 style, where I want a full understanding  
 21 of our sales.  
 22 MR. PHILLIPS: If you could  
 23 note at this point on the record,  
 24 a request for document, we would

Page 193

1 request a copy of that brochure,  
 2 since it has been used in the hire  
 3 process.  
 4 BY MR. PHILLIPS:  
 5 Q. When you are looking for --  
 6 when you are looking at a person's work  
 7 history, prior job experience, what kind  
 8 of prior job experience are you looking  
 9 for, for counselor?  
 10 A. For a sales counselor?  
 11 Q. Yes.  
 12 A. You look for experience  
 13 dealing with customers; customer service  
 14 for sales and/or sales oriented.  
 15 In a range of industries,  
 16 the personality will definitely determine  
 17 whether they have the ability.  
 18 Q. So, you assess their  
 19 potential for good sales based on your  
 20 observation of their personality? Is  
 21 that what you are saying?  
 22 A. Well, their resume will say  
 23 one thing. And then the interview, you  
 24 know, when I discuss their details of

49 (Pages 190 to 193)



## Joni Marie Fabie

<p style="text-align: right;">Page 198</p> <p>1 Q. Well, I'm asking. What 2 industry, other than retail, is there any 3 other kind of industry that you are 4 looking for when hiring a counselor? 5 MR. WETCHLER: Objection. 6 Asked and answered. You can 7 answer again. 8 THE WITNESS: I'm not 9 looking for one particular 10 industry. 11 I am looking for the 12 qualifications that they possess 13 in order to fill my needs. 14 And it can be found in a 15 wide range of industries. 16 BY MR. PHILLIPS: 17 Q. This was previously marked 18 as Bernard Exhibit 7. 19 Look at the document with 20 sufficient detail to determine whether 21 you've ever seen that before and then 22 I'll draw your attention to particular 23 pages. 24 A. Yes.</p>	<p style="text-align: right;">Page 200</p> <p>1 you review it as a part of your overall 2 hiring duties in order to inform you 3 regarding conducting interviews or 4 conducting hiring? 5 MR. WETCHLER: Object to 6 form. You can answer. 7 BY MR. PHILLIPS: 8 Q. You can answer. 9 A. This is simply a guideline, 10 more geared towards a newer supervisor; 11 to help them sharpen and improve their 12 interviewing skills. 13 A lot of this information in 14 here are things that I have knowledge, I 15 have acquired through the years, already 16 in my experience interviewing. 17 But they always have updated 18 interviews guides and information and 19 documentation and tools as well; as well 20 a suggestion for interviewing and 21 recruiting. 22 Q. Turn to Page 5; bottom 23 center of the page, Page 5. 24 A. Uh-huh.</p>
<p style="text-align: right;">Page 199</p> <p>1 Q. Okay. Have you had an 2 opportunity to review Bernard Exhibit 7? 3 A. Yes. 4 Q. Do you recognize it? 5 A. Yes. 6 Q. What is it? 7 A. It is a workshop on -- it's 8 our latest workshop on recruiting, 9 interviewing skills. 10 Q. Do you use this document? 11 A. Do I reference it at every 12 interview, no. 13 Q. Have you used it as a 14 guidance for your own hiring activities? 15 A. I am aware of a lot of 16 information and forms available to me in 17 this document. 18 Q. Do you use any of it? 19 A. I use them -- do I use them 20 specifically? 21 Q. Yes. 22 A. Do I pull this guide out 23 during interview? 24 Q. Not during an interview. Do</p>	<p style="text-align: right;">Page 201</p> <p>1 Q. If you could look at Pages 5 2 through 8. 3 A. Uh-huh. 4 Q. And let me know when you are 5 done. 6 A. Yes. 7 Q. Okay. Do you -- first of 8 all, let me draw your attention to the 9 industry column on the left-hand side. 10 A. Uh-huh. 11 Q. You were referencing, in 12 your testimony earlier, with respect to 13 the position of counselor, a number of 14 industries that you look for. 15 The first industry, 16 accessories and apparel, are you familiar 17 with generally with what kind of industry 18 that is? 19 A. Yes. 20 Q. Is that an industry that you 21 were referencing, among the many 22 industries that you were referencing in 23 your prior testimony? 24 A. Yes. A lot of these</p>